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AMENDMENTS TO LB 93

1 1. Strike section 2 and insert the following new
2 sections:

3 "Section 1. Section 2-2626, Revised Statutes Supplement,
4 2000, is amended to read:

5 2-2626. The department shall have the following powers,
6 functions, and duties:

7 (1) To administer, implement, and enforce the Pesticide
8 Act and serve as the lead state agency for the regulation of
9 pesticides. The department shall involve the natural resources
10 districts and other state agencies, including the Department of
11 Environmental Quality, the Department of Natural Resources, or the
12 Department of Health and Human Services Regulation and Licensure,
13 in matters relating to water quality. Nothing in the act shall be
14 interpreted in any way to affect the powers of any other state
15 agency or of any natural resources district to regulate for ground
16 water quality or surface water quality as otherwise provided by
17 law;

18 (2) To be responsible for the development and
19 implementation of a state management plan for the prevention,
20 evaluation, and mitigation of occurrences of pesticides or
21 pesticide breakdown products in ground water and surface water of
22 the state. The Department of Environmental Quality shall be
23 responsible for the adoption of standards for pesticides in surface
24 water and ground water, and the Department of Health and Human

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1 Services Regulation and Licensure shall be responsible for the
2 adoption of standards for pesticides in drinking water. These
3 standards shall be established as action levels in the state
4 management plan at which prevention and mitigation measures are
5 implemented. Such action levels may be set at or below the maximum
6 contaminant level set for any product as set by the federal agency
7 under the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq.
8 The department shall cooperate with and use existing expertise in
9 other state agencies when developing a state management plan and
10 shall not hire a hydrologist within the department for such
11 purpose. As part of the state management plan and after notice and
12 public hearing, the department may adopt and promulgate rules and
13 regulations providing lists of state-limited-use pesticides for the
14 entire state or for a designated area within the state, subject to
15 the following:

16 (a) A pesticide may be included on a list of
17 state-limited-use pesticides if:

18 (i) The department determines that the pesticide, when
19 applied in accordance with its directions for use, warnings, and
20 cautions and for uses for which it is registered, may without
21 additional regulatory restrictions cause unreasonable adverse
22 effects on humans or the environment, including injury to the
23 applicator or other persons because of acute dermal or inhalation
24 toxicity of the pesticides;

25 (ii) The water quality standards set by the Department of
26 Environmental Quality or the Department of Health and Human
27 Services Regulation and Licensure pursuant to this section are

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1 exceeded; or

2 (iii) The department determines that the pesticide
3 requires additional restrictions to meet the requirements of the
4 Pesticide Act, the federal act, or any plan adopted under the
5 Pesticide Act or the federal act;

6 (b) The department may regulate the time and conditions
7 of use of a state-limited-use pesticide and may require that it be
8 purchased or possessed only:

9 (i) With permission of the department;

10 (ii) Under direct supervision of the department or its
11 designee in certain areas and under certain conditions;

12 (iii) In specified quantities and concentrations or at
13 specified times; or

14 (iv) According to such other restrictions as the
15 department may set by regulation;

16 (c) The department may require a person authorized to
17 distribute or use a state-limited-use pesticide to maintain records
18 of the person's distribution or use and may require that the
19 records be kept separate from other business records;

20 (d) The state management plan shall be coordinated with
21 the department and other state agency plans and with other state
22 agencies and with natural resources districts; and

23 (e) The state management plan may impose progressively
24 more rigorous pesticide management practices as pesticides are
25 detected in ground water or surface water at increasing fractions
26 of the standards adopted by the Department of Environmental Quality
27 or the Department of Health and Human Services Regulation and

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1 Licensure;

2 (3) To adopt and promulgate such rules and regulations as
3 are necessary for the enforcement and administration of the
4 Pesticide Act. ~~There is hereby created a Rules and Regulations~~
5 ~~Advisory Committee consisting of the Director of Agriculture,~~
6 ~~Director of Environmental Quality, Director of Natural Resources,~~
7 ~~and Director of Regulation and Licensure or the designated~~
8 ~~representative of any of such directors. The committee shall~~
9 ~~advise the Department of Agriculture in the adoption and~~
10 ~~promulgation of such rules and regulations as are necessary for the~~
11 ~~enforcement and administration of the act. The regulations shall~~
12 include, but not be limited to, regulations providing for:

13 (a) The collection of samples, examination of records,
14 and reporting of information by persons subject to the act;

15 (b) The safe handling, transportation, storage, display,
16 distribution, use, and disposal of pesticides and their containers;

17 (c) Labeling requirements of all pesticides required to
18 be registered under provisions of the act, except that such
19 regulations shall not impose any requirements for federally
20 registered labels contrary to those required pursuant to the
21 federal act;

22 (d) Classes of devices which shall be subject to the
23 Pesticide Act;

24 (e) Reporting and record-keeping requirements for persons
25 distributing or using pesticide products made available under
26 section 136p of the federal act;

27 (f) Methods to be used in the application of pesticides

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1 when the department finds that such regulations are necessary to
2 carry out the purpose and intent of the Pesticide Act. Such
3 regulations may include methods to be used in the application of a
4 restricted-use pesticide, may relate to the time, place, manner,
5 methods, materials, amounts, and concentrations in connection with
6 the application of the pesticide, and may restrict or prohibit use
7 of the pesticides in designated areas during specified periods of
8 time. The regulations shall encompass all reasonable factors which
9 the department deems necessary to prevent damage or injury by drift
10 or misapplication to (i) plants, including forage plants, or
11 adjacent or nearby lands, (ii) wildlife in the adjoining or nearby
12 areas, (iii) fish and other aquatic life in waters in reasonable
13 proximity to the area to be treated, (iv) surface water or ground
14 water, and (v) humans, animals, or beneficial insects. In adopting
15 and promulgating such regulations, the department shall give
16 consideration to pertinent research findings and recommendations of
17 other agencies of the state, the federal government, or other
18 reliable sources. The department may, by regulation, require that
19 notice of a proposed application of a pesticide be given to
20 landowners whose property is adjacent to the property to be treated
21 or in the immediate vicinity thereof if the department finds that
22 such notice is necessary to carry out the purpose of the act;

23 (g) State-limited-use pesticides for the state or for
24 designated areas in the state;

25 (h) Establishment of the amount of any fee or fine as
26 directed by the act; and

27 (i) Establishment of the components of any state

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1 management plan;

2 (4) To enter any public or private premises at any
3 reasonable time to:

4 (a) Inspect and sample any equipment authorized or
5 required to be inspected under the act or to inspect the premises
6 on which the equipment is kept or stored;

7 (b) Inspect or sample any area exposed or reported to be
8 exposed to a pesticide or where a pesticide application has been
9 made;

10 (c) Inspect and sample any area where a pesticide is
11 disposed of or stored;

12 (d) Observe the use and application of and sample any
13 pesticide;

14 (e) Inspect and copy any records relating to the
15 distribution or use of any pesticide or the issuance of any license
16 or registration under the act; or

17 (f) Inspect, examine, or take samples from any building
18 or place owned, controlled, or operated by a registrant, certified
19 applicator, or dealer if, from probable cause, it appears that the
20 building or place contains a pesticide;

21 (5) To sample, inspect, make analysis of, and test any
22 pesticide found within this state;

23 (6) To issue and enforce a written or printed order to
24 stop the sale, removal, or use of a pesticide if the department has
25 reason to believe that the pesticide is in violation of any
26 provision of the act. The department shall present the order to
27 the owner or custodian of the pesticide. The person who receives

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1 the order shall not distribute, remove, or use the pesticide until
2 the department determines that the pesticide is in compliance with
3 the act. This subdivision shall not limit the right of the
4 department to proceed as authorized by any other provision of the
5 act;

6 (7) (a) To sue in the name of the director to enjoin any
7 violation of the act. Venue for such action shall be in the county
8 in which the alleged violation occurred, is occurring, or is
9 threatening to occur; and

10 (b) To request the county attorney or the Attorney
11 General to bring suit to enjoin a violation or threatened violation
12 of the act;

13 (8) To impose or levy an administrative fine of not more
14 than five thousand dollars on any person who has violated the
15 provisions, requirements, conditions, limitations, or duties
16 imposed by the act. A violation shall mean any separate activity
17 or day in which an activity takes place;

18 (9) To cause a written complaint to be served upon the
19 alleged violator or violators whenever the director has reason to
20 believe that a violation of any provision of the act, a rule or
21 regulation under the act, or any order of the department has
22 occurred. The complaint shall specify the provision of the act,
23 rule, regulation, or order alleged to be violated and the facts
24 alleged to constitute a violation and shall order that necessary
25 corrective action be taken within a reasonable time to be
26 prescribed in such order. Any such order shall become final
27 unless each person named in the order requests in writing a hearing

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1 before the director and answers the charges complained of at a time
2 and a place specified in the notice. In lieu of such order, the
3 director may require that the alleged violator appear before the
4 director at a time and place specified in the notice and answer the
5 charges complained of;

6 (10) To take measures necessary to ensure that all fees,
7 fines, and penalties prescribed by the act and the rules or
8 regulations adopted under the act are assessed and collected;

9 (11) To access, inspect, and copy all books, papers,
10 records, bills of lading, invoices, and other information relating
11 to the use and distribution of pesticides necessary for the
12 enforcement of the act;

13 (12) To seize, for use as evidence, without formal
14 warrant if probable cause exists, any pesticide which is in
15 violation of the act or is not approved by the department or which
16 is found to be used or distributed in the violation of the act or
17 the rules and regulations adopted and promulgated under it;

18 (13) To declare as a pest any form of plant or animal
19 life, other than humans and other than bacteria, viruses, and other
20 microorganisms on or in living humans or other living animals,
21 which is injurious to health or the environment;

22 (14) To adopt classifications of restricted-use
23 pesticides as determined by the federal agency under the federal
24 act. In addition to the restricted-use pesticides classified by
25 the administrator, the department may also determine
26 state-limited-use pesticides for the state or for designated areas
27 within the state as provided in subdivision (2) of this section;

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1 (15) To receive grants-in-aid from any federal entity,
2 and to enter into cooperative agreements with any federal entity,
3 any agency of this state, any subdivision of this state, any agency
4 of another state, any Indian tribe, or any private person for the
5 purpose of obtaining assistance in the implementation of the
6 Pesticide Act. The department may reimburse any such entity from
7 the Pesticide Administrative Cash Fund for the work performed under
8 the cooperative agreement. The department may delegate its
9 administrative responsibilities under the act to cities of the
10 metropolitan and primary classes if it reasonably believes that
11 such cities can perform the responsibilities in a manner consistent
12 with the act and the rules and regulations adopted and promulgated
13 under it;

14 (16) To prepare and adopt such plans as are necessary to
15 implement any requirements of the federal agency under the federal
16 act;

17 (17) To request the assistance of the Attorney General or
18 the county attorney in the county in which a violation of the
19 Pesticide Act has occurred with the prosecution or enforcement of
20 any violation of the act;

21 (18) To enter into a settlement agreement with any person
22 regarding the disposition of any license, permit, or administrative
23 fine;

24 (19) To issue, cancel, suspend, modify, or place on
25 probation any license or permit issued pursuant to the act; and

26 (20) To make such reports to the federal agency as are
27 required under the federal act.

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1 Sec. 2. Section 20-139, Revised Statutes Supplement,
2 2000, is amended to read:

3 20-139. The Nebraska Fair Housing Act and sections
4 20-123, 20-124, and 20-132 to 20-143 shall be administered by the
5 Equal Opportunity Commission, except that the State Fire Marshal
6 shall administer the act and sections as they relate to
7 accessibility standards and specifications set forth in sections
8 81-5,147 ~~to 81-5,149~~ and 81-5,148. The county attorneys are
9 granted the authority to enforce such act and sections 20-123,
10 20-124, and 20-132 to 20-143 and shall possess the same powers and
11 duties with respect thereto as the commission. If a complaint is
12 filed with the county attorney, the commission shall be notified.
13 Powers granted to and duties imposed upon the commission pursuant
14 to such act and sections shall be in addition to the provisions of
15 the Nebraska Fair Employment Practice Act and shall not be
16 construed to amend or restrict those provisions. In carrying out
17 the Nebraska Fair Housing Act and sections 20-123, 20-124, and
18 20-132 to 20-143, the commission shall have the power to:

19 (1) Seek to eliminate and prevent discrimination in
20 places of public accommodation because of race, color, sex,
21 religion, national origin, familial status as defined in section
22 20-311, handicap as defined in section 20-313, or ancestry;

23 (2) Effectuate the purposes of sections 20-132 to 20-143
24 by conference, conciliation, and persuasion so that persons may be
25 guaranteed their civil rights and goodwill may be fostered;

26 (3) Formulate policies to effectuate the purposes of
27 sections 20-132 to 20-143 and make recommendations to agencies and

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1 officers of the state or local subdivisions of government in aid of
2 such policies and purposes;

3 (4) Adopt and promulgate rules and regulations to carry
4 out the powers granted by the Nebraska Fair Housing Act and
5 sections 20-123, 20-124, and 20-132 to 20-143, subject to the
6 provisions of the Administrative Procedure Act. The commission
7 shall, not later than one hundred eighty days after September 6,
8 1991, issue draft rules and regulations to implement subsection (3)
9 of section 20-336, which regulations may incorporate regulations of
10 the Department of Housing and Urban Development as applicable;

11 (5) Designate one or more members of the commission or a
12 member of the commission staff to conduct investigations of any
13 complaint alleging discrimination because of race, color, sex,
14 religion, national origin, familial status, handicap, or ancestry,
15 attempt to resolve such complaint by conference, conciliation, and
16 persuasion, and conduct such conciliation meetings and conferences
17 as are deemed necessary to resolve a particular complaint, which
18 meetings shall be held in the county in which the complaint arose;

19 (6) Determine that probable cause exists for crediting
20 the allegations of a complaint;

21 (7) Determine that a complaint cannot be resolved by
22 conference, conciliation, or persuasion, such determination to be
23 made only at a meeting where a quorum is present;

24 (8) Dismiss a complaint when it is determined there is
25 not probable cause to credit the allegations;

26 (9) Hold hearings, subpoena witnesses and compel their
27 attendance, administer oaths, take the testimony of any person

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1 under oath, and in connection therewith require for examination any
2 books or papers relating to any matter under investigation or in
3 question before the commission; and

4 (10) Issue publications and the results of studies and
5 research which will tend to promote goodwill and minimize or
6 eliminate discrimination because of race, color, sex, religion,
7 national origin, familial status, handicap, or ancestry.

8 Sec. 3. Section 44-788, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 44-788. (1) Notwithstanding section 44-3,131, any
11 individual or group sickness and accident insurance policy or
12 subscriber contract delivered, issued for delivery, or renewed in
13 this state and any hospital, medical, or surgical expense-incurred
14 policy, except for policies that provide coverage for a specified
15 disease or other limited-benefit coverage, and any self-funded
16 employee benefit plan to the extent not preempted by federal law,
17 which provides reimbursement for prescription drugs approved by the
18 federal Food and Drug Administration for the treatment of a
19 specific type of cancer shall not exclude coverage of any drug or
20 combination of drugs on the basis that the drug or combination of
21 drugs has not been approved by the federal Food and Drug
22 Administration for the treatment of another specific type of cancer
23 if (a) the drug or combination of drugs is recognized for treatment
24 of the other specific type of cancer in the United States
25 Pharmacopeia-Drug Information and the drug or combination of drugs
26 is approved for sale by the federal Food and Drug Administration or
27 (b) the drug or combination of drugs is recognized for treatment of

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1 the other specific type of cancer in medical literature and the
2 drug or combination of drugs is approved for sale by the federal
3 Food and Drug Administration.

4 (2) Notwithstanding section 44-3,131, any individual or
5 group sickness and accident insurance policy or subscriber contract
6 delivered, issued for delivery, or renewed in this state and any
7 hospital, medical, or surgical expense-incurred policy, except for
8 policies that provide coverage for a specified disease or other
9 limited-benefit coverage, and any self-funded employee benefit plan
10 to the extent not preempted by federal law, which provides
11 reimbursement for prescription drugs approved by the federal Food
12 and Drug Administration for the treatment of human immunodeficiency
13 virus or acquired immunodeficiency syndrome shall not exclude
14 coverage of any drug or combination of drugs on the basis that the
15 drug or combination of drugs has not been approved by the federal
16 Food and Drug Administration for the treatment of human
17 immunodeficiency virus or acquired immunodeficiency syndrome if (a)
18 the drug or combination of drugs is recognized for treatment of
19 human immunodeficiency virus or acquired immunodeficiency syndrome
20 in the United States Pharmacopeia-Drug Information and the drug or
21 combination of drugs is approved for sale by the federal Food and
22 Drug Administration or (b) the drug or combination of drugs is
23 recognized for treatment of human immunodeficiency virus or
24 acquired immunodeficiency syndrome in medical literature and the
25 drug or combination of drugs is approved for sale by the federal
26 Food and Drug Administration.

27 (3) Any coverage of a drug or combination of drugs

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1 required by this section shall include medically necessary services
2 associated with the administration of the drug if such services are
3 covered by the insurance policy, contract, or plan.

4 (4) Nothing in this section shall be construed to require
5 coverage for any experimental or investigational drug not approved
6 by the federal Food and Drug Administration.

7 (5) For purposes of this section, medical literature
8 means two articles from major peer-reviewed professional medical
9 journals that have recognized, based on scientific or medical
10 criteria, the safety and effectiveness of the drug or combination
11 of drugs for treatment of the indication for which it has been
12 prescribed unless two articles from major peer-reviewed
13 professional medical journals have concluded, based on scientific
14 or medical criteria, that the drug or combination of drugs is
15 unsafe or ineffective or that the safety and effectiveness of the
16 drug or combination of drugs cannot be determined for the treatment
17 of the indication for which the drug or combination of drugs has
18 been prescribed. Each article shall meet the uniform requirements
19 for manuscripts submitted to biomedical journals established by the
20 International Committee of Medical Journal Editors or shall have
21 been published in a journal specified by the United States
22 Department of Health and Human Services pursuant to 42 U.S.C.
23 1395x(t)(2)(B), as amended, as acceptable peer-reviewed medical
24 literature. Peer-reviewed medical literature shall not include
25 publications or supplements that are sponsored to a significant
26 extent by a pharmaceutical manufacturing company or health carrier.

27 (6) Within ninety days after July 15, 1998, the chief

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1 ~~medical officer, if one is appointed pursuant to section 81-3201,~~
2 ~~and if not, then the Director of Regulation and Licensure, shall~~
3 ~~appoint a panel of five medical experts as follows: Three medical~~
4 ~~oncologists, upon the recommendation of the Nebraska Oncology~~
5 ~~Society, and two specialists in the management of patients being~~
6 ~~treated for human immunodeficiency virus or acquired~~
7 ~~immunodeficiency syndrome, upon the recommendation of the Nebraska~~
8 ~~Medical Association. Members of the panel shall serve without~~
9 ~~compensation, except that they shall be reimbursed for their actual~~
10 ~~and necessary expenses pursuant to sections 81-1174 to 81-1177.~~
11 ~~When there is a question regarding acceptable medical literature~~
12 ~~support of an administration under this section, the panel, upon~~
13 ~~request of the Director of Insurance, shall review the use in~~
14 ~~dispute and the medical literature and shall advise the Director of~~
15 ~~Insurance whether an administration is medically appropriate for~~
16 ~~purposes of this section. A majority vote of the members of the~~
17 ~~panel shall be necessary to determine that coverage is medically~~
18 ~~appropriate. The panel may meet in person or by telephone~~
19 ~~conference call or other communication means acceptable to the~~
20 ~~Director of Insurance and the chief medical officer, if one is~~
21 ~~appointed pursuant to section 81-3201, and if not, then the~~
22 ~~Director of Regulation and Licensure.~~

23 ~~(7)~~ This section shall apply to policies, plans, or
24 contracts for insurance as provided in subsections (1) and (2) of
25 this section which are delivered, issued for delivery, or renewed
26 in this state on or after July 15, 1998.

27 Sec. 5. Section 60-2121, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 60-2121. ~~As used in~~ For purposes of the Motorcycle
3 Safety Education Act, unless the context otherwise requires:

4 (1) ~~Committee shall mean the Motorcycle Safety Advisory~~
5 ~~Committee,~~

6 ~~(2)~~ Department ~~shall mean~~ means the Department of Motor
7 Vehicles;

8 ~~(3)~~ (2) Director ~~shall mean~~ means the Director of Motor
9 Vehicles; and

10 ~~(4)~~ (3) Fund ~~shall mean~~ means the Motorcycle Safety
11 Education Fund created in section 60-2132.

12 Sec. 6. Section 71-1405, Revised Statutes Supplement,
13 2000, is amended to read:

14 71-1405. (1) Within thirty days after the date of the
15 birth of any child born in this state with visible congenital
16 deformities, the physician, midwife, or person acting as midwife,
17 who ~~shall be~~ is in attendance upon such birth, shall prepare and
18 file with the Department of Health and Human Services Finance and
19 Support, a statement setting forth such visible congenital
20 deformity. The form of such statement shall be prepared by the
21 Director of Finance and Support, and shall be a part of the birth
22 report furnished by the department.

23 (2) For purposes of this section, congenital deformities
24 include a cleft lip, cleft palate, hernia, congenital cataract, or
25 disability resulting from congenital or acquired heart disease, or
26 any congenital abnormality or orthopedic condition that can be
27 cured or materially improved. The orthopedic condition or

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1 deformity includes any deformity or disease of childhood generally
2 recognized by the medical profession, and it includes deformities
3 resulting from burns.

4 Sec. 7. Section 71-1901, Revised Statutes Supplement,
5 2001, is amended to read:

6 71-1901. For purposes of sections 71-1901 to ~~71-1906.03~~
7 71-1906.01:

8 (1) Person includes a partnership, limited liability
9 company, firm, agency, association, or corporation;

10 (2) Child means an unemancipated minor;

11 (3) Department means the Department of Health and Human
12 Services;

13 (4) Foster care means engaged in the service of
14 exercising twenty-four-hour daily care, supervision, custody, or
15 control over children, for compensation or hire, in lieu of the
16 care or supervision normally exercised by parents in their own
17 home. Foster care does not include casual care at irregular
18 intervals or programs as defined in section 71-1910; and

19 (5) Native American means a person who is a member of an
20 Indian tribe or eligible for membership in an Indian tribe.

21 Sec. 8. Section 71-1902, Revised Statutes Supplement,
22 2001, is amended to read:

23 71-1902. Except as otherwise provided in this section,
24 no person shall furnish or offer to furnish foster care for two or
25 more children from different families without having in full force
26 and effect a written license issued by the department upon such
27 terms and conditions as may be prescribed by general rules and

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1 regulations adopted and promulgated by the department. The
2 department may issue a time-limited, nonrenewable provisional
3 license to an applicant who is unable to comply with all licensure
4 requirements and standards, is making a good faith effort to
5 comply, and is capable of compliance within the time period stated
6 in the license. The department may issue a time-limited,
7 nonrenewable probationary license to a licensee who agrees to
8 establish compliance with rules and regulations that, when
9 violated, do not present an unreasonable risk to the health,
10 safety, or well-being of the foster children in the care of the
11 applicant. No license shall be issued pursuant to this section
12 unless the applicant has completed the required hours of training
13 in foster care as prescribed by the department.

14 All nonprovisional and nonprobationary licenses issued
15 under sections 71-1901 to ~~71-1906.03~~ 71-1906.01 shall expire two
16 years from the date of issuance and shall be subject to renewal
17 under the same terms and conditions as the original license, except
18 that if a licensee submits a completed renewal application thirty
19 days or more before the license's expiration date, the license
20 shall remain in effect until the department either renews the
21 license or denies the renewal application. No license issued
22 pursuant to this section shall be renewed unless the licensee has
23 completed the required hours of training in foster care in the
24 preceding twelve months as prescribed by the department. For the
25 issuance or renewal of each nonprovisional and nonprobationary
26 license, the department shall charge a fee of fifty dollars for a
27 group home, fifty dollars for a child-caring agency, and fifty

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1 dollars for a child-placing agency. For the issuance of each
2 provisional license and each probationary license, the department
3 shall charge a fee of twenty-five dollars for a group home,
4 twenty-five dollars for a child-caring agency, and twenty-five
5 dollars for a child-placing agency. A license may be revoked for
6 cause, after notice and hearing, in accordance with rules and
7 regulations adopted and promulgated by the department.

8 For purposes of this section:

9 (1) Foster family home means any home which provides
10 twenty-four-hour care to children who are not related to the foster
11 parent by blood or adoption;

12 (2) Group home means a home which is operated under the
13 auspices of an organization which is responsible for providing
14 social services, administration, direction, and control for the
15 home and which is designed to provide twenty-four-hour care for
16 children and youth in a residential setting;

17 (3) Child-caring agency means an organization which is
18 incorporated for the purpose of providing care for children in
19 buildings maintained by the organization for that purpose; and

20 (4) Child-placing agency means an organization which is
21 authorized by its articles of incorporation and by its license to
22 place children in foster family homes.

23 Sec. 9. Section 71-1903, Revised Statutes Supplement,
24 2001, is amended to read:

25 71-1903. (1) Before issuance of a license under sections
26 71-1901 to ~~71-1906.03~~ 71-1906.01, the department shall cause such
27 investigation to be made as it deems necessary to determine if the

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1 character of the applicant, any member of the applicant's
2 household, or the person in charge of the service and the place
3 where the foster care is to be furnished are such as to ensure the
4 proper care and treatment of children. The department may
5 investigate the character of prospective or existing licensees, any
6 member of such licensee's household, and the staff and employees of
7 foster care facilities by making a national criminal history record
8 information check. The department may request the State Fire
9 Marshal to inspect such places for fire safety pursuant to section
10 81-502. The State Fire Marshal shall assess a fee for such
11 inspection pursuant to section 81-505.01, payable by the licensee
12 or applicant for a license, except that the department may pay the
13 fee for inspection for fire safety of foster family homes as
14 defined in section 71-1902. The department may request the
15 Department of Health and Human Services Regulation and Licensure to
16 conduct sanitation and health standards investigations pursuant to
17 subsection (2) of this section. The Department of Health and Human
18 Services may also, at any time it sees fit, cause an inspection to
19 be made of the place where any licensee is furnishing foster care
20 to see that such service is being properly conducted.

21 (2) The Department of Health and Human Services
22 Regulation and Licensure shall make an investigation and report to
23 the Department of Health and Human Services, within thirty days
24 after receipt of the request from the Department of Health and
25 Human Services, of all facilities and programs of licensed
26 providers of foster care programs subject to this section or
27 applicants for licenses to provide such programs to determine if

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1 the place or places to be covered by such licenses meet standards
2 of health and sanitation set by the Department of Health and Human
3 Services for the care and protection of the child or children who
4 may be placed in such facilities and programs. The Department of
5 Health and Human Services Regulation and Licensure may delegate the
6 investigation authority to qualified local environmental health
7 personnel.

8 Sec. 10. Section 71-1904, Revised Statutes Supplement,
9 2001, is amended to read:

10 71-1904. The department shall adopt and promulgate rules
11 and regulations pursuant to sections 71-1901 to ~~71-1906.03~~
12 71-1906.01 for (1) the proper care and protection of children by
13 licensees under such sections, (2) the issuance, suspension, and
14 revocation of licenses to provide foster care, (3) the issuance,
15 suspension, and revocation of probationary licenses to provide
16 foster care, (4) the issuance, suspension, and revocation of
17 provisional licenses to provide foster care, (5) the provision of
18 training in foster care, which training shall be directly related
19 to the skills necessary to care for children in need of out-of-home
20 care, including, but not limited to, abused, neglected, dependent,
21 and delinquent children, and ~~the training required by section~~
22 ~~71-1906.03, and~~ (6) the proper administration of sections 71-1901
23 to ~~71-1906.03~~ 71-1906.01. The training required by subdivision (5)
24 of this section shall be between twelve and twenty-four hours as
25 determined by the department.

26 Sec. 11. Section 71-1905, Revised Statutes Supplement,
27 2001, is amended to read:

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1 71-1905. Any person who violates any of the provisions
2 of sections 71-1901 to ~~71-1906.03~~ 71-1906.01 shall be deemed guilty
3 of a Class III misdemeanor.

4 Sec. 12. Section 71-3503, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-3503. For purposes of the Radiation Control Act,
7 unless the context otherwise requires:

8 (1) Radiation means ionizing radiation and nonionizing
9 radiation as follows:

10 (a) Ionizing radiation means gamma rays, X-rays, alpha
11 and beta particles, high-speed electrons, neutrons, protons, and
12 other atomic or nuclear particles or rays but does not include
13 sound or radio waves or visible, infrared, or ultraviolet light;
14 and

15 (b) Nonionizing radiation means (i) any electromagnetic
16 radiation which can be generated during the operations of
17 electronic products to such energy density levels as to present a
18 biological hazard to occupational and public health and safety and
19 the environment, other than ionizing electromagnetic radiation, and
20 (ii) any sonic, ultrasonic, or infrasonic waves which are emitted
21 from an electronic product as a result of the operation of an
22 electronic circuit in such product and to such energy density
23 levels as to present a biological hazard to occupational and public
24 health and safety and the environment;

25 (2) Radioactive material means any material, whether
26 solid, liquid, or gas, which emits ionizing radiation
27 spontaneously. Radioactive material includes, but is not limited

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1 to, accelerator-produced material, byproduct material, naturally
2 occurring material, source material, and special nuclear material;

3 (3) Radiation-generating equipment means any manufactured
4 product or device, component part of such a product or device, or
5 machine or system which during operation can generate or emit
6 radiation except devices which emit radiation only from radioactive
7 material;

8 (4) Sources of radiation means any radioactive material,
9 any radiation-generating equipment, or any device or equipment
10 emitting or capable of emitting radiation or radioactive material;

11 (5) Undesirable radiation means radiation in such
12 quantity and under such circumstances as determined from time to
13 time by rules and regulations adopted and promulgated by the
14 department;

15 (6) Person means any individual, corporation,
16 partnership, limited liability company, firm, association, trust,
17 estate, public or private institution, group, agency, political
18 subdivision of this state, any other state or political subdivision
19 or agency thereof, and any legal successor, representative, agent,
20 or agency of the foregoing;

21 (7) Registration means registration with the department
22 pursuant to the Radiation Control Act;

23 (8) Department means the Department of Health and Human
24 Services Regulation and Licensure;

25 (9) Coordinator means the Director of Regulation and
26 Licensure;

27 (10) Council means the radiation advisory council

1 ~~provided for in section 71-3506,~~

2 ~~(11)~~ Electronic product means any manufactured product,
3 device, assembly, or assemblies of such products or devices which,
4 during operation in an electronic circuit, can generate or emit a
5 physical field of radiation;

6 ~~(12)~~ (11) License means:

7 (a) A general license issued pursuant to rules and
8 regulations adopted and promulgated by the department without the
9 filing of an application with the department or the issuance of
10 licensing documents to particular persons to transfer, acquire,
11 own, possess, or use quantities of or devices or equipment
12 utilizing radioactive materials;

13 (b) A specific license, issued to a named person upon
14 application filed with the department pursuant to the Radiation
15 Control Act and rules and regulations adopted and promulgated
16 pursuant to the act, to use, manufacture, produce, transfer,
17 receive, acquire, own, or possess quantities of or devices or
18 equipment utilizing radioactive materials;

19 (c) A license issued to a radon measurement specialist,
20 radon measurement technician, radon mitigation specialist, radon
21 mitigation technician, radon measurement business, or radon
22 mitigation business; or

23 (d) A license issued to a medical radiographer or limited
24 radiographer;

25 ~~(13)~~ (12) Byproduct material means:

26 (a) Any radioactive material, except special nuclear
27 material, yielded in or made radioactive by exposure to the

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1 radiation incident to the process of producing or utilizing special
2 nuclear material; and

3 (b) The tailings or wastes produced by the extraction or
4 concentration of uranium or thorium from any ore processed
5 primarily for its source material content, including discrete
6 surface wastes resulting from uranium or thorium solution
7 extraction processes. Underground ore bodies depleted by such
8 solution extraction operations do not constitute byproduct
9 material;

10 ~~(14)~~ (13) Source material means:

11 (a) Uranium or thorium or any combination thereof in any
12 physical or chemical form; or

13 (b) Ores which contain by weight one-twentieth of one
14 percent or more of uranium, thorium, or any combination thereof.
15 Source material does not include special nuclear material;

16 ~~(15)~~ (14) Special nuclear material means:

17 (a) Plutonium, uranium 233, or uranium enriched in the
18 isotope 233 or in the isotope 235 and any other material that the
19 United States Nuclear Regulatory Commission pursuant to the
20 provisions of section 51 of the federal Atomic Energy Act of 1954,
21 as amended, determines to be special nuclear material but does not
22 include source material; or

23 (b) Any material artificially enriched by any material
24 listed in subdivision ~~(15)(a)~~ (14)(a) of this section but does not
25 include source material;

26 ~~(16)~~ (15) Users of sources of radiation means:

27 (a) Physicians using radioactive material or

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1 radiation-generating equipment for human use;

2 (b) Natural persons using radioactive material or
3 radiation-generating equipment for education, research, or
4 development purposes;

5 (c) Natural persons using radioactive material or
6 radiation-generating equipment for manufacture or distribution
7 purposes;

8 (d) Natural persons using radioactive material or
9 radiation-generating equipment for industrial purposes; and

10 (e) Natural persons using radioactive material or
11 radiation-generating equipment for any other similar purpose;

12 ~~(17)~~ (16) Civil penalty means any monetary penalty levied
13 on a licensee or registrant because of violations of statutes,
14 rules, regulations, licenses, or registration certificates but does
15 not include criminal penalties;

16 ~~(18)~~ (17) Closure means all activities performed at a
17 waste handling, processing, management, or disposal site, such as
18 stabilization and contouring, to assure that the site is in a
19 stable condition so that only minor custodial care, surveillance,
20 and monitoring are necessary at the site following termination of
21 licensed operation;

22 ~~(19)~~ (18) Decommissioning means final operational
23 activities at a facility to dismantle site structures, to
24 decontaminate site surfaces and remaining structures, to stabilize
25 and contain residual radioactive material, and to carry out any
26 other activities to prepare the site for postoperational care;

27 ~~(20)~~ (19) Disposal means the permanent isolation of

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1 low-level radioactive waste pursuant to the Radiation Control Act
2 and rules and regulations adopted and promulgated pursuant to such
3 act;

4 ~~(21)~~ (20) Generate means to produce low-level radioactive
5 waste when used in relation to low-level radioactive waste;

6 ~~(22)~~ (21) High-level radioactive waste means:

7 (a) Irradiated reactor fuel;

8 (b) Liquid wastes resulting from the operation of the
9 first cycle solvent extraction system or equivalent and the
10 concentrated wastes from subsequent extraction cycles or the
11 equivalent in a facility for reprocessing irradiated reactor fuel;
12 and

13 (c) Solids into which such liquid wastes have been
14 converted;

15 ~~(23)~~ (22) Low-level radioactive waste means radioactive
16 waste not defined as high-level radioactive waste, spent nuclear
17 fuel, or byproduct material as defined in subdivision ~~(13)~~ ~~(b)~~
18 (12) (b) of this section;

19 ~~(24)~~ (23) Management of low-level radioactive waste means
20 the handling, processing, storage, reduction in volume, disposal,
21 or isolation of such waste from the biosphere in any manner, except
22 the commercial disposal of low-level radioactive waste in a
23 disposal facility, designated by the Central Interstate Low-Level
24 Radioactive Waste Compact Commission;

25 ~~(25)~~ (24) Source material mill tailings or mill tailings
26 means the tailings or wastes produced by the extraction or
27 concentration of uranium or thorium from any ore processed

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1 primarily for its source material content, including discrete
2 surface wastes resulting from underground solution extraction
3 processes, but not including underground ore bodies depleted by
4 such solution extraction processes;

5 ~~(26)~~ (25) Source material milling means any processing of
6 ore, including underground solution extraction of unmined ore,
7 primarily for the purpose of extracting or concentrating uranium or
8 thorium therefrom and which results in the production of source
9 material and source material mill tailings;

10 ~~(27)~~ (26) Spent nuclear fuel means irradiated nuclear
11 fuel that has undergone at least one year of decay since being used
12 as a source of energy in a power reactor. Spent nuclear fuel
13 includes the special nuclear material, byproduct material, source
14 material, and other radioactive material associated with fuel
15 assemblies;

16 ~~(28)~~ (27) Transuranic waste means radioactive waste
17 containing alpha-emitting transuranic elements, with radioactive
18 half-lives greater than five years, in excess of one hundred
19 nanocuries per gram;

20 ~~(29)~~ (28) Licensed practitioner means a person licensed
21 to practice medicine, dentistry, podiatry, chiropractic,
22 osteopathic medicine and surgery, or as an osteopathic physician;

23 ~~(30)~~ (29) X-ray system means an assemblage of components
24 for the controlled production of X-rays, including, but not limited
25 to, an X-ray high-voltage generator, an X-ray control, a tube
26 housing assembly, a beam-limiting device, and the necessary
27 supporting structures. Additional components which function with

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1 the system are considered integral parts of the system;

2 ~~(31)~~ (30) Limited radiographer means a person licensed to
3 practice medical radiography pursuant to subsection (2) of section
4 71-3515.01. Limited radiographer does not include a person
5 certified under section 71-176.01;

6 ~~(32)~~ (31) Medical radiographer means a person licensed to
7 practice medical radiography pursuant to subsection (1) of section
8 71-3515.01;

9 ~~(33)~~ (32) Medical radiography means the application of
10 radiation to humans for diagnostic purposes, including, but not
11 limited to, adjustment or manipulation of X-ray systems and
12 accessories including image receptors, positioning of patients,
13 processing of films, and any other action that materially affects
14 the radiation dose to patients; and

15 ~~(34)~~ (33) Licensed facility operator means any person or
16 entity who has obtained a license under the Low-Level Radioactive
17 Waste Disposal Act to operate a facility, including any person or
18 entity to whom an assignment of a license is approved by the
19 Department of Environmental Quality.

20 Sec. 13. Section 71-3504, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-3504. (1) The Director of Regulation and Licensure
23 shall be the coordinator of radiation control activities and may
24 designate a Director of Radiation Control. The Director of
25 Regulation and Licensure shall:

26 (a) Advise the Governor and agencies of the state on
27 matters relating to radiation; and

1 (b) Coordinate regulatory activities of the state
2 relating to radiation, including cooperation with other states and
3 the federal government.

4 (2) The Director of Regulation and Licensure shall:

5 (a) Review before and after the holding of any public
6 hearing required under the Administrative Procedure Act, prior to
7 promulgation, the proposed rules and regulations of all agencies of
8 the state relating to use and control of radiation to assure that
9 such rules and regulations are consistent with rules and
10 regulations of other agencies of the state;

11 (b) When he or she determines that proposed rules or
12 regulations or parts thereof are inconsistent with rules and
13 regulations of other agencies of the state, ~~consult with the~~
14 ~~radiation advisory council in~~ make an effort to resolve such
15 inconsistencies. Upon notification ~~by the council~~ that such
16 inconsistencies have not been resolved, the Governor may, after
17 consultation with ~~the council~~ and the Director of Regulation and
18 Licensure, find that the proposed rules and regulations or parts
19 thereof are inconsistent with rules and regulations of other
20 agencies of the state or the federal government and may issue an
21 order to that effect, in which event the proposed rules and
22 regulations or parts thereof shall not become effective. The
23 Governor may, in the alternative, upon a similar determination,
24 direct the appropriate agency or agencies to amend or repeal
25 existing rules and regulations to achieve consistency with the
26 proposed rules and regulations;

27 (c) Advise, consult, and cooperate with other agencies of

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1 the state, the federal government, other states, interstate
2 agencies, political subdivisions, and other organizations concerned
3 with control of sources of radiation; and

4 (d) Collect and disseminate information relating to the
5 control of sources of radiation and maintain (i) a file of all
6 registrants, license applications, issuances, denials, amendments,
7 transfers, renewals, modifications, inspections, recommendations
8 pertaining to radiation, suspensions, and revocations, (ii) a file
9 of registrants possessing or using sources of radiation requiring
10 registration under the Radiation Control Act and any administrative
11 or judicial action pertaining to such registration, and (iii) a
12 file of all rules and regulations relating to the regulation of
13 sources of radiation, pending or promulgated, and proceedings on
14 such rules and regulations thereon.

15 (3) The several agencies of the state and political
16 subdivisions shall keep the coordinator fully and currently
17 informed as to their activities relating to development of new uses
18 and regulation of sources of radiation.

19 Sec. 14. Section 71-3505, Revised Statutes Supplement,
20 2000, is amended to read:

21 71-3505. Matters relative to radiation as they relate to
22 occupational and public health and safety and the environment shall
23 be a responsibility of the department. The department shall:

24 (1) Develop comprehensive policies and programs for the
25 evaluation and determination of undesirable radiation associated
26 with the production, use, storage, or disposal of radiation sources
27 and formulate, adopt, promulgate, and repeal rules and regulations

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1 which may provide (a) for registration or licensure under section
2 71-3507 or 71-3509 and (b) for registration or licensure of (i) any
3 other source of radiation, (ii) persons providing services for
4 collection, detection, measurement, or monitoring of sources of
5 radiation, including, but not limited to, radon and its decay
6 products, (iii) persons providing services to reduce the effects of
7 sources of radiation, (iv) persons practicing medical radiography,
8 and (v) persons practicing industrial radiography, as specified by
9 rule or regulation so as to reasonably protect occupational and
10 public health and safety and the environment in a manner compatible
11 with regulatory programs of the federal government. The department
12 for identical purposes may also adopt and promulgate rules and
13 regulations for the issuance of licenses, either general or
14 specific, to persons for the purpose of using, manufacturing,
15 producing, transporting, transferring, receiving, acquiring,
16 owning, or possessing any radioactive material. Such rules and
17 regulations may prohibit the use of radiation for uses found by the
18 department to be detrimental to occupational and public health or
19 safety or the environment and shall carry out the purposes and
20 policies set out in sections 71-3501 and 71-3502. Such rules and
21 regulations shall not prohibit or limit the kind or amount of
22 radiation purposely prescribed for or administered to a patient by
23 doctors of medicine and surgery, dentistry, osteopathic medicine,
24 chiropractic, podiatry, and veterinary medicine, while engaged in
25 the lawful practice of such profession, or administered by other
26 professional personnel, such as allied health personnel, medical
27 radiographers, limited radiographers, nurses, and laboratory

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1 workers, acting under the supervision of a licensed practitioner.
2 Violation of rules and regulations adopted and promulgated by the
3 department pursuant to the Radiation Control Act shall be due cause
4 for the suspension, revocation, or limitation of a license issued
5 by the department. Any licensee may request a hearing before the
6 department on the issue of such suspension, revocation, or
7 limitation. Procedures for notice and opportunity for a hearing
8 before the department shall be pursuant to the Administrative
9 Procedure Act. The decision of the department may be appealed, and
10 the appeal shall be in accordance with the Administrative Procedure
11 Act;

12 (2) ~~Inform the council of any such rules and regulations~~
13 ~~at least thirty days prior to their adoption and consider any~~
14 ~~recommendations of the council;~~

15 ~~(3)~~ Have the authority to accept and administer loans,
16 grants, or other funds or gifts, conditional or otherwise, in
17 furtherance of its functions, from the federal government and from
18 other sources, public or private;

19 ~~(4)~~ (3) Encourage, participate in, or conduct studies,
20 investigations, training, research, and demonstrations relating to
21 the control of sources of radiation;

22 ~~(5)~~ (4) Collect and disseminate health education
23 information relating to radiation protection;

24 ~~(6)~~ (5) Make its facilities available so that any person
25 or any agency may request the department to review and comment on
26 plans and specifications of installations submitted by the person
27 or agency with respect to matters of protection and safety for the

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1 control of undesirable radiation;

2 ~~(7)~~ (6) Be empowered to inspect radiation sources and
3 their shieldings and surroundings for the determination of any
4 possible undesirable radiation or violations of rules and
5 regulations adopted and promulgated by the department and provide
6 the owner, user, or operator with a report of any known or
7 suspected deficiencies; and

8 ~~(8)~~ (7) Collect a fee for emergency response or
9 environmental surveillance, or both, offsite from each nuclear
10 power plant equal to the cost of completing the emergency response
11 or environmental surveillance and any associated report. In no
12 event shall the fee for any nuclear power plant exceed the lesser
13 of the actual costs of such activities or fifty-three thousand
14 dollars per annum. Commencing July 1, 1997, the accounting
15 division of the Department of Administrative Services shall
16 recommend an inflationary adjustment equivalent which shall be
17 based upon the Consumer Price Index for All Urban Consumers of the
18 United States Department of Labor, Bureau of Labor Statistics, and
19 shall not exceed five percent per annum. Such adjustment shall be
20 applied to the annual fee for nuclear power plants. The fee
21 collected shall be credited to the Department of Health and Human
22 Services Regulation and Licensure Cash Fund. This fee shall be
23 used solely for the purpose of defraying the direct costs of the
24 emergency response and environmental surveillance at Cooper Nuclear
25 Station and Fort Calhoun Station conducted by the department. The
26 department may charge additional fees when mutually agreed upon for
27 services, training, or equipment that are a part of or in addition

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1 to matters in this section.

2 Sec. 15. Section 71-3508.01, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-3508.01. (1) Any radioactive materials license issued
5 or renewed after August 30, 1987, for any activity which results in
6 the production of byproduct material as defined in subdivision
7 ~~(13)(b)~~ (12)(b) of section 71-3503 shall contain such terms and
8 conditions as the department determines to be necessary to assure
9 that prior to termination of such license:

10 (a) The licensee shall comply with decontamination,
11 decommissioning, and reclamation standards prescribed by the
12 department which shall be equivalent, to the extent practicable, or
13 more stringent than those of the federal Nuclear Regulatory
14 Commission for sites (i) at which ores are processed primarily for
15 their source material content and (ii) at which such byproduct
16 material or mill tailings are deposited; and

17 (b) Ownership of any disposal site and such byproduct
18 material or mill tailings which resulted from the licensed activity
19 will, subject to subsection (2) of this section, be transferred to
20 (i) the United States or (ii) this state if the state exercises the
21 option to acquire land used for the disposal of such byproduct
22 material or mill tailings. Any license which is in effect on
23 August 30, 1987, and which is subsequently terminated without
24 renewal shall comply with subdivisions (1)(a) and (b) of this
25 section upon termination.

26 (2)(a) The department shall require by rule, regulation,
27 or order that prior to the termination of any license which is

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1 issued after August 30, 1987, title to the land, including any
2 interests therein, other than land held in trust by the United
3 States for any Indian tribe or owned by an Indian tribe subject to
4 a restriction against alienation imposed by the United States or
5 land already owned by the United States or by the state, which is
6 used pursuant to such license for the disposal of byproduct
7 material or source material mill tailings will be transferred to
8 (i) the United States or (ii) this state, unless the federal
9 Nuclear Regulatory Commission determines prior to such termination
10 that transfer of title to such land and such byproduct material or
11 mill tailings is not necessary or desirable to protect the
12 occupational and public health and safety and the environment or to
13 minimize danger to life or property.

14 (b) If transfer to the state of title to such byproduct
15 material or mill tailings and land is required, the state may
16 assume title, following the federal Nuclear Regulatory Commission's
17 determination that the licensee has complied with applicable
18 standards and requirements under the license, and the department
19 shall maintain the byproduct material or mill tailings and land in
20 such manner as will protect the occupational and public health and
21 safety and the environment.

22 (c) The department may undertake such monitoring,
23 maintenance, and emergency measures as are necessary to protect the
24 occupational and public health and safety and the environment for
25 those materials and property to which the state has assumed title
26 pursuant to this section.

27 (d) The transfer of title to the United States or this

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1 state shall not relieve any licensee of liability for any
2 fraudulent or negligent acts done prior to such transfer.

3 (e) Title transferred pursuant to this section shall be
4 transferred without cost to the United States or this state other
5 than the administrative and legal costs incurred in carrying out
6 such transfer.

7 (3) In the licensing and regulation of byproduct material
8 and source material mill tailings or of any activity which results
9 in the production of byproduct material or mill tailings, the
10 department shall require compliance with applicable standards
11 adopted and promulgated by the department which are equivalent, to
12 the extent practicable, or more stringent than standards adopted
13 and enforced by the federal Nuclear Regulatory Commission for the
14 same purpose, including requirements and standards promulgated by
15 the federal Environmental Protection Agency.

16 Sec. 16. Section 71-4609, Revised Statutes Supplement,
17 2000, is amended to read:

18 71-4609. (1) The commission shall administer the Uniform
19 Standard Code for Manufactured Homes and Recreational Vehicles.
20 The commission may adopt and promulgate, amend, alter, or repeal
21 general rules and regulations of procedure for (a) administering
22 the provisions of the code, (b) issuing seals, (c) obtaining
23 statistical data respecting the manufacture and sale of
24 manufactured homes and recreational vehicles, and (d) prescribing
25 means, methods, and practices to make effective such provisions.

26 (2) ~~The commission shall appoint an advisory committee of~~
27 ~~seven members, which committee may review the rules, regulations,~~

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1 and standards of the commission pertaining to manufactured homes
2 and recreational vehicles and recommend changes. The committee
3 shall represent a cross section of those having an extensive
4 interest in manufactured home or recreational vehicle body and
5 frame design and construction or plumbing, heating, or electrical
6 systems. The committee shall serve at the pleasure of the
7 commission. Members of the committee who were appointed prior to
8 May 1, 1998, shall continue to serve until their successors are
9 appointed by the commission.

10 ~~(3)~~ The commission shall refuse to issue a seal to any
11 manufacturer or other person for any manufactured home or
12 recreational vehicle found to be not in compliance with its
13 standards governing body and frame design and construction or
14 plumbing, heating, or electrical systems for manufactured homes or
15 recreational vehicles or for which fees have not been paid. Except
16 in case of failure to pay the required fees, any such manufacturer
17 or other person may request a hearing before the commission on the
18 issue of such refusal. Procedures for notice and opportunity for a
19 hearing before the commission shall be pursuant to the
20 Administrative Procedure Act. The refusal by the commission may be
21 appealed, and the appeal shall be in accordance with the act.

22 ~~(4)~~ (3) The issuance of seals may be suspended or revoked
23 as to any manufacturer or other person who has not complied with
24 any provision of the code or with any rule, regulation, or standard
25 adopted and promulgated under the code or who is convicted of
26 violating section 71-4608, and issuance of the seals shall not be
27 resumed until such manufacturer or other person submits sufficient

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1 proof that the conditions which caused the lack of compliance or
2 the violation have been remedied. Any manufacturer or other person
3 may request a hearing before the commission on the issue of such
4 suspension or revocation. Procedures for notice and opportunity
5 for a hearing before the commission shall be pursuant to the
6 Administrative Procedure Act. The suspension or revocation by the
7 commission may be appealed, and the appeal shall be in accordance
8 with the act.

9 ~~(5)~~ (4) The commission may conduct hearings and
10 presentations of views consistent with the regulations adopted by
11 the United States Department of Housing and Urban Development and
12 adopt and promulgate such rules and regulations as are necessary to
13 carry out this function.

14 ~~(6)~~ (5) The commission shall establish a monitoring
15 inspection fee in an amount approved by the United States Secretary
16 of Housing and Urban Development, which fee shall be an amount paid
17 to the commission by the manufacturer for each manufactured-home
18 seal issued in the state. An additional monitoring inspection fee
19 established by the United States Secretary of Housing and Urban
20 Development shall be paid by the manufacturer to the secretary who
21 shall distribute the fees collected from all manufactured-home
22 manufacturers based on provisions developed and approved by the
23 secretary.

24 Sec. 17. Section 71-4903, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-4903. The Department of Health and Human Services
27 shall:

1 (1) ~~With the advice and consent of the renal disease~~
2 ~~advisory committee, develop~~ Develop standards for determining
3 eligibility for care and treatment under this program and establish
4 standards and qualifications of those patients unable to pay for
5 treatment of chronic renal disease on a continuing basis. Such
6 standards shall require that an individual:

7 (a) Shall be a bona fide resident of the State of
8 Nebraska;

9 (b) Shall not be able to pay the total cost of such
10 needed care and treatment without depriving himself or herself or
11 those legally dependent upon him or her for their necessities of
12 life;

13 (c) Shall not have deprived himself or herself, directly
14 or indirectly, of any property for the purpose of qualifying for
15 assistance under the provisions of sections 71-4901 to 71-4905;

16 (d) Shall not have relatives legally responsible to
17 provide such care and treatment who refuse or neglect to provide
18 such care and treatment in whole or in part without good cause; and

19 (e) Shall be a proper candidate for such care and
20 treatment, including willingness of that person to receive such
21 care and treatment;

22 (2) Assist in the development and expansion of programs
23 for the care and treatment of persons suffering from chronic renal
24 diseases, including dialysis, transplant, and other medical
25 procedures and techniques which will have a life-saving effect in
26 the care and treatment of persons suffering from these diseases;

27 (3) Assist in the development of programs for the

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1 prevention of chronic renal diseases;

2 (4) Extend financial assistance to persons suffering from
3 chronic renal diseases in obtaining the medical, nursing,
4 pharmaceutical, and technical services necessary in caring for such
5 diseases, including the renting of home dialysis equipment, and
6 extend financial assistance to donors to persons suffering from
7 chronic renal diseases in obtaining the medical, nursing,
8 pharmaceutical, and technical services necessary in caring for such
9 donors;

10 (5) Assist in equipping dialysis centers and the planning
11 of such on the basis of consultation with the comprehensive health
12 planning office; and

13 (6) Institute and carry on an educational program among
14 physicians, hospitals, public health departments, and the public
15 concerning chronic renal diseases, including the dissemination of
16 information and the conducting of educational programs concerning
17 the prevention of chronic renal diseases and the methods for the
18 care and treatment of persons suffering from these diseases.

19 Sec. 18. Section 75-366, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 75-366. For the purpose of enforcing Chapter 75, article
22 3, any officer of the carrier enforcement division of the Nebraska
23 State Patrol or any officer of the Nebraska State Patrol may, upon
24 demand, inspect the accounts, records, and equipment of any carrier
25 or shipper. The carrier enforcement division shall enforce the
26 provisions of Chapter 75, article 3. To promote uniformity of
27 enforcement, the carrier enforcement division shall cooperate and

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1 consult with the Public Service Commission, and the Division of
2 Motor Carrier Services. ~~7 and the Motor Carrier Advisory Council.~~
3 For the purpose of enforcing sections 75-363 and 75-364, any
4 officer of the carrier enforcement division of the Nebraska State
5 Patrol or any officer of the Nebraska State Patrol shall have the
6 authority of special agents of the Federal Highway Administration.

7 Sec. 19. Section 77-27,187, Revised Statutes Supplement,
8 2000, is amended to read:

9 77-27,187. Sections 77-27,187 to ~~77-27,196~~ 77-27,195
10 shall be known and may be cited as the Employment Expansion and
11 Investment Incentive Act.

12 Sec. 20. Section 79-1312, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 79-1312. Sections 79-1312 to ~~79-1327~~ 79-1325 shall be
15 known and may be cited as the Nebraska Educational
16 Telecommunications Act.

17 Sec. 21. Section 81-177, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-177. Each state agency operating or managing
20 state-owned buildings, utilities, or grounds shall make a detailed
21 inspection of facilities under its care to determine accurately
22 what renewal work items exist and the probable cost and time
23 required for doing the work. A detailed report of the findings
24 shall be made to the Governor, listing for each building, utility,
25 or grounds improvement, the individual work items with estimated
26 quantities and unit prices. Such report shall also include a
27 listing of projects needed in state-owned structures to accommodate

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1 persons with handicaps as provided in sections 81-5,147 ~~to 81-5,150~~
2 and 81-5,148. The report shall state which work items are
3 recommended to be done under contract and which are proposed to be
4 done by agency forces with an estimate of hours of labor and labor
5 costs. The Governor shall refer the report to the task force for
6 its study and recommendations pursuant to section 81-178.

7 Sec. 22. Section 81-5,147, Revised Statutes Supplement,
8 2000, is amended to read:

9 81-5,147. The State Fire Marshal, ~~with the advice of the~~
10 ~~Accessibility Advisory Committee~~, shall adopt and promulgate:

11 (1) Standards, specifications, and exclusions which are
12 consistent with the most current uniform guidelines and standards
13 set by the federal Americans with Disabilities Act of 1990, as
14 amended, for (a) buildings and facilities which are newly
15 constructed for first occupancy and (b) alterations of existing
16 buildings and facilities used by the public. For purposes of this
17 section, alterations of an existing building or facility used by
18 the public shall include remodeling, renovation, rehabilitation,
19 reconstruction, historic restoration, changes or rearrangement in
20 structural parts or elements, and changes or rearrangements in the
21 plan or configuration of the height of walls or partitions. Normal
22 maintenance, reroofing, painting, wallpapering, asbestos removal,
23 or changes to mechanical and electrical systems shall not be
24 considered alterations; and

25 (2) Standards and specifications which are consistent
26 with the most current uniform guidelines and standards set by the
27 federal Fair Housing Act of 1968, as adopted by the State of

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1 Nebraska, for new constructed covered multifamily dwellings as
2 defined in section 20-319.

3 Sec. 23. Section 81-8,307, Revised Statutes Supplement,
4 2000, is amended to read:

5 81-8,307. (1) The Nebraska Lewis and Clark Bicentennial
6 Commission is established and has the following members:

7 (a) A chairperson, a vice-chairperson, and six other
8 members appointed by the Governor, at least one of whom shall be an
9 enrolled member of a Nebraska Indian tribe and one of whom shall be
10 an African American. All appointed members shall serve three-year
11 terms and may be reappointed. All appointed members shall have an
12 interest in the history of the Lewis and Clark expedition;

13 (b) The Director of the Nebraska State Historical Society
14 or his or her designee;

15 (c) The secretary of the Game and Parks Commission or his
16 or her designee;

17 (d) The head of the Travel and Tourism Division of the
18 Department of Economic Development or his or her designee;

19 (e) The President of the University of Nebraska or his or
20 her designee; and

21 (f) The executive director of the Commission on Indian
22 Affairs or his or her designee.

23 (2) The Nebraska Lewis and Clark Bicentennial Commission
24 shall coordinate and promote the observance of Nebraska's
25 bicentennial commemoration of the Lewis and Clark expedition. ~~The~~
26 ~~commission shall seek designation as a nonprofit organization under~~
27 ~~section 501(c)(3) of the Internal Revenue Code.~~ The commission

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1 may:

2 (a) Cooperate with national, regional, statewide, and
3 local events promoting the bicentennial;

4 (b) Plan, assist, coordinate, or conduct bicentennial
5 events;

6 (c) Engage in fundraising activities, including
7 revenue-earning enterprises and the solicitation of grants, gifts,
8 and donations;

9 (d) Promote public education concerning the Lewis and
10 Clark expedition;

11 (e) Coordinate interagency participation in the
12 observation and work with appropriate federal entities such as the
13 National Park Service, the United States Forest Service, and the
14 United States Army;

15 (f) Appoint various local and regional advisory
16 committees; and

17 (g) Perform any other related duties.

18 (3) The Nebraska Lewis and Clark Bicentennial Fund is
19 created. All money collected by the commission shall be remitted
20 to the State Treasurer for credit to the fund. Money collected may
21 include money from revenue-earning enterprises, grants, gifts,
22 bequests, or donations, appropriations by the Legislature, and
23 interest earned. Money in the fund shall be used only for the
24 purposes described in this section. Any money in the fund
25 available for investment shall be invested by the state investment
26 officer pursuant to the Nebraska Capital Expansion Act and the
27 Nebraska State Funds Investment Act.

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1 (4) Members of the Nebraska Lewis and Clark Bicentennial
2 Commission shall serve without compensation but shall be reimbursed
3 for their actual and necessary expenses as provided in sections
4 81-1174 to 81-1177.

5 Sec. 24. Section 81-1417, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 81-1417. (1) The Nebraska Commission on Law Enforcement
8 and Criminal Justice shall consist of ~~nineteen~~ eighteen members.
9 The membership shall include the Governor, the Attorney General,
10 the Superintendent of Law Enforcement and Public Safety, the
11 Director of Correctional Services, the chief of police or director
12 of public safety of a city of more than two hundred thousand
13 population, the chief of police or director of public safety of a
14 city of less than two hundred thousand population, ~~a district court~~
15 ~~judge,~~ a county sheriff, a county attorney, a county commissioner,
16 a mayor or city manager, a person involved with the control or
17 prevention of juvenile delinquency, the chairperson of the Nebraska
18 Police Standards Advisory Council, and six members, at least one of
19 whom shall be a woman, from the public at large. The seven members
20 of the council shall also be considered members of the commission
21 acting as a special committee of the commission with limited powers
22 and duties. A member of the commission may serve concurrently as a
23 member of the council. The term of the district court judge
24 serving on the effective date of this act terminates on such date.

25 (2) The Governor may increase the membership of the
26 commission at any time if such increase is necessary to comply with
27 the provisions of any federal act providing funds for law

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1 enforcement or delinquency prevention purposes. Such members of
2 the commission appointed by the Governor shall serve for terms of
3 six years from January 1 next succeeding their appointments.

4 (3) Except for the Governor, the Attorney General, the
5 Superintendent of Law Enforcement and Public Safety, and the
6 Director of Correctional Services, the members of the commission
7 shall be appointed by the Governor. The membership of the
8 commission shall represent varying geographic areas and large and
9 small governmental subdivisions.

10 Sec. 25. Section 83-4,124, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 83-4,124. It is hereby declared to be the policy of the
13 State of Nebraska that all criminal detention facilities and
14 juvenile detention facilities in the state shall conform to certain
15 minimum standards of construction, maintenance, and operation.

16 To further such policy, the Jail Standards Board is
17 hereby created. For administrative and budgetary purposes such
18 board shall be within the Nebraska Commission on Law Enforcement
19 and Criminal Justice. The board shall consist of the Director of
20 Correctional Services or, if the Director of Correctional Services
21 chooses not to serve on the board, a person appointed by the
22 director to serve in lieu of the director, the State Fire Marshal
23 or his or her designee, and ~~ten~~ nine appointive members, three of
24 whom shall be from each of the three congressional districts and
25 one of whom shall be appointed at large, to be appointed by the
26 Governor. The appointive members of the board shall be appointed
27 from recommendation lists containing at least three names submitted

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1 by ~~the Nebraska District Court Judges Association,~~ the Nebraska
2 Association of County Officials, the Nebraska County Sheriffs
3 Association, the Nebraska State Bar Association, and the Police
4 Officers Association of Nebraska. The appointive members of the
5 board shall consist of: (1) ~~One district judge,~~ ~~(2) two~~ Two county
6 commissioners or supervisors; ~~(3)~~ (2) one county sheriff; ~~(4)~~ (3)
7 one municipal police chief; ~~(5)~~ (4) one member of the Nebraska
8 State Bar Association; ~~(6)~~ (5) two lay people; ~~(7)~~ (6) one person
9 who at the time of his or her appointment is serving as an
10 administrator responsible for the operation and maintenance of a
11 juvenile detention facility; and ~~(8)~~ (7) one person who at the time
12 of his or her appointment is serving as an administrator or jailer
13 responsible for the operation and maintenance of a criminal
14 detention facility having an average daily population of greater
15 than fifty persons. The term of the district judge serving on the
16 effective date of this act terminates on such date.

17 The terms of office for all members initially appointed
18 shall be three years. Upon completion of the initial term of the
19 board, the Governor shall appoint one member from each
20 congressional district for a term of one year, one member from each
21 congressional district for a term of two years, and one member from
22 each congressional district for a term of three years. Succeeding
23 appointees shall be representative of the same congressional
24 district and shall be appointed for terms of three years. The
25 at-large member shall be appointed for a term of three years. An
26 appointee to a vacancy occurring from an unexpired term shall serve
27 out the term of his or her predecessor. Members whose terms have

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1 expired shall continue to serve until their successors have been
2 appointed.

3 The members of the board shall serve without
4 compensation, but they shall be reimbursed for their actual
5 expenses while engaged in the performance of their official duties
6 as provided in sections 81-1174 to 81-1177.

7 Sec. 26. Original sections 44-788, 60-2121, 71-3503,
8 71-3504, 71-3508.01, 71-4903, 75-366, 79-1312, 81-177, 81-1417, and
9 83-4,124, Reissue Revised Statutes of Nebraska, sections 2-2626,
10 20-139, 50-1302, 71-1405, 71-3505, 71-4609, 77-27,187, 81-5,147,
11 and 81-8,307, Revised Statutes Supplement, 2000, and sections
12 71-1901 to 71-1905, Revised Statutes Supplement, 2001, are
13 repealed.

14 Sec. 27. The following sections are outright repealed:
15 Sections 60-2122 to 60-2124, 71-1401 to 71-1404, 71-1744, 71-1759,
16 71-3506, 71-4902, 75-387, 75-388, 77-27,196, 79-1326, 80-323,
17 80-324, 81-5,150, and 81-5,154 to 81-5,156, Reissue Revised
18 Statutes of Nebraska, sections 71-533 to 71-538, 71-1565, 71-1736,
19 71-1758, 71-1906.02, 71-8606, 79-1327, and 81-5,149, Revised
20 Statutes Supplement, 2000, and section 71-1906.03, Revised Statutes
21 Supplement, 2001."

22 2. Renumber the remaining section accordingly.